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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,358	11/03/2003	Dudley S. Childress	HANS	5248

7590 08/26/2005

Mr. Edward J. Timmer
P.O. Box 770
Richland, MI 49083-0770

EXAMINER

SWEET, THOMAS

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/700,358

Applicant(s)

CHILDRESS ET AL.

Examiner

Thomas J. Sweet

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-18 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/26/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Truesdell (US 4652266). Truesdell discloses a prosthetic foot (fig. 2), comprising at least one flexible element (34) that is deflected under load during a gait cycle of a user of the foot (as seen in fig. 4) and a plurality of constraining elements (15-17) that constrain deflection of the at least one flexible element such that it assumes an arcuate roll-over shape during the gait cycle of the user (as seen in fig. 4).

With respect to claims 16 and 18, method of making a prosthetic foot, comprising connecting (via screws 35) at least one flexible element that is deflected under load during a gait cycle of a user of the foot and a plurality of constraining elements that constrain deflection of the at least one flexible element such that the flexible element assumes an arcuate roll-over shape during the gait cycle of the user and forming gaps (by placing elements 39 and 40) between adjacent constraining elements in a direction of a foot longitudinal axis.

Claims 1- 11 and 13-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bryant (US 5549711). Bryant discloses a prosthetic foot (fig. 8), comprising at least one flexible element (24) that is deflected under load during a gait cycle of a user of the foot and a plurality of

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constraining elements (22-1 to 22-4) that constrain deflection of the at least one flexible element such that it assumes an arcuate roll-over shape during the gait cycle of the user (as seen in fig. 6F).

With regard to claims 2 and 10, the constraining elements can be categorized incompressible (substantially or not), since the elements flex but do not change thickness or length.

With regard to claims 3 and 11, the constraining elements be categorized inextensible (substantially or not), since the elements flex but do not change length.

With regard to claims 7-9, the constraining elements are spaced apart by upstanding gaps (20) in a direction of foot longitudinal axis and are inherently adapted to abut one another in a manner to constrain maximum deflection of the flexible sole element so that assumes the roll-over shape (such as seen in fig. 6F).

With regard to claim 14, including an attachment segment (34 and 40) fully capable of connection to a pylon connector of a residual limb socket.

With regard to claim 15, including a heel segment that is configured to allow bending of the foot at the heel segment (fig. 8).

With regard to claims 16-18, the method of making a prosthetic foot, comprising connecting (via integral molding) at least one flexible element (24) to a plurality of constraining elements (22-1 to 22-4) including forming gaps (20) between adjacent constraining elements in a direction of a foot longitudinal axis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-11 and 13-15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Truesdell. Truesdell discloses a prosthetic foot (fig. 5 alone with out the cover) as discussed above including constraining elements (15-17) are spaced apart by upstanding gaps (where elements 39 and 40 are located) in a direction of foot longitudinal axis and are fully capable to abut one another in a manner to constrain maximum deflection of the flexible sole element so that assumes the roll-over shape (upon compression of elements 39 and 40 until squeezed in to the base of the gap).

With regard to claim 13, the constraining elements are formed integrally (i.e. directly connected) on the flexible sole element and collectively form a keel of the foot.

With regard to claim 14, including an attachment segment (29) fully capable of connection to a pylon connector of a residual limb socket.

With regard to claim 15, including a heel segment (15) that is configured to allow bending of the foot at the heel segment (at 39).

Claim 17 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Truesdell. Truesdell discloses a method of making a prosthetic foot as discussed above including at least one flexible element (34) inherently molded integrally

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with the constraining elements (15-17), since the flexible element and constraining elements as integral (connected in one unit) and molded (col 2, line 68) in a cover (11).

Allowable Subject Matter

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. MEIER (DE 10107838 A1), Christensen (US 5944760), Naeder (US 5062859), Arbogast et al. (US 4865612), Phillips (US PGpub 20030191541) and Phillips (US PGpub 20020077706)

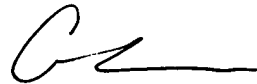
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Sweet whose telephone number is 571-272-4761. The examiner can normally be reached on 6:30 am - 5:00pm, M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tjs



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